

**PATENT****REMARKS**

Claims 1-22 are currently pending in this application. Claims 1, 12 and 15 have been amended. No new matter has been added by these amendments. Applicant has carefully reviewed the Office Action and respectfully requests reconsideration of the claims in view of the remarks presented below.

**Specification Objections**

The paragraph [0020] of the specification was objected to for including an erroneous reference to figure 2. As indicated in the "Amendments to the Specification," this reference has been changed to figure 1.

**Claim Objections**

Claim 12 was objected to for reciting the word "exercised" instead of "exercise." Claim 12 has been amended to recite "exercise."

**Claim Rejections Under 35 U.S.C. §102**

Claims 1-3, 8, 10-11, 15-17 and 19-22 were rejected under 35 U.S.C. §102(a) as being anticipated by U.S. Patent No. 6,609,023 (Fischell et al.)

Applicant's invention relates to devices and methods that discriminate between myocardial infarction and ischemia using a plurality of sensed cardiac activity signals, e.g., electrograms, obtained using a plurality of electrode configurations. For example, independent claim 17 is directed to a method of discriminating between ischemia and myocardial infarction of a patient's heart that includes sensing cardiac activity of the heart with a plurality of cardiac activity sensing electrode configurations to provide a plurality of signals; and discriminating between ischemia and myocardial infarction based on the plurality of signals.

Fischell et al. does not disclose the use of a plurality of different electrode configurations to obtain a plurality of different cardiac activity signals to be used to discriminate between myocardial infarction and ischemia. Instead, all that is disclosed

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is the use of a single electrogram obtained over a series of heart beats (apparently using a single electrode configuration) that is segmented and then processed to determine any ST segment shifts. See e.g., column 17, line 32 through column 18, line 65 and column 34, lines 19-33.

In view of the foregoing, Applicant submits that Fischell et al. fails to teach the invention claimed in independent claims 1, 15 and 17. Accordingly, Applicant requests reconsideration of the §102 rejections of these claims and their respective dependent claims.

**Claim Rejections Under 35 U.S.C. §103**

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Fischell et al. in view of U.S. Patent No. 5,273,049 (Steinhaus et al.). Claims 13-14 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fischell et al. in view of U.S. Patent Application Publication U.S. 2003/0023175.

In view of the foregoing analysis of independent claims 1 and 17 in view of Fischell et al., Applicant believes that the rejections under §103 are rendered moot as dependent claims 4, 13-14 and 18 depend from allowable independent claims.

In further regard to claim 4, although Applicant believes this claim is allowable in view of its dependency from claim 1, it is noted that the summation taught by Steinhaus et al., as cited in the Office Action, is made with respect to samples from a single electrogram – not with respect to electrograms, as recited in claim 4. Therefore, regardless of the allowance of claim 1, Applicant submits that neither Fischell et al. nor Steinhaus et al., either alone or in combination, teach or suggest the invention claimed in dependent claim 4. Accordingly, Applicant requests reconsideration of the §103 rejection of claim 4.

**PATENT****Allowable Subject Matter**

Claims 5-7, 9 and 12 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.


In view of the remarks presented above with respect to the rejections of independent claim 1, Applicant believes claims 5-7, 9 and 12 are allowable without amendment. Applicant, however, reserves the right to amend these claims at a later time.

**CONCLUSION**

Applicant has made an earnest and bona fide effort to clarify the issues before the Examiner and to place this case in condition for allowance. Therefore, reconsideration and allowance of Applicant's claims 1-22 are believed to be in order.

Respectfully submitted,

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Date

  
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